GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TWD – Appeal Petition filed by Sri Tarinichandra Jadavo S/o Prakash Chandra Goud, Dy. Registrar, Divisional Co-operative Office, Tekkali, Srikakulam District filed under Section 7 of the Act 16 of 1993 against the proceedings Rc.No.1148/2007 C1, dated 23.05.2012 of the District Collector, Srikakulam cancelling his ST 'Goud' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.41. Dated: 11.07.2023
Read the following:-

1. Proceedings of the District Collector, Srikakulam District, Rc.No.148/2007 C1, dated 23.05.2012.
2. Appeal Petition filed by Tarinichandra Jadavo S/o Prakash Chandra Goud, Dy. Registrar, Divisional Co-operative Office, Tekkali, Srikakulam District before M(TW), No.28/M(TW)/2013, dt.02.02.2013.
3. Govt. Memo No.1424/CV.2/2013, dated:27-02-2013.
4. From the District Collector, Srikakulam, Rc.No.1148/2007 C1, dt.14.03.2013.
5. Govt. Memo No.1424/CV/A2/2013, dated: 18.11.2022 & 24.02.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Srikakulam issued orders cancelling the "ST-Goud" community certificate of Sri Tarinichandra Jadavo S/o Prakash Chandra Goud relying only on his ST Goud Caste Certificate issued by Principal, G.J. College, Pathapatnam, who has no authority to issue such Certificate.

2. In the reference 2nd read above, Sri Tarinichandra Jadavo S/o Prakash Chandra Goud has filed Appeal Petition before the Government against the Proceedings of the District Collector, Srikakulam. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector in Govt. Memo 3rd read above.

3. In the letter 5th read above, the Collector & District Magistrate, Srikakulam has furnished the para-wise remarks on the Appeal Petition filed by Sri Tarinichandra Jadavo S/o Prakash Chandra Goud.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 07.03.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & Written arguments filed by the Appellant/ Para-wise remarks submitted by the District Collector, Srikakulam and proceedings of the District Collector, Srikakulam, dated 23.05.2012, the Appellate authority has observed that;

- The present Appeal is filed against the impugned proceedings in RC.No.1148/2007 CI, dated 23-5-2012 of the District Collector, Srikakulam District issued under the Section 5(1) of AP (SC/ST/BC) Regulation of issue of Community Certificates Act 16/93, cancelling the Scheduled Tribe Certificate obtained by the appellant /Sri Tarini Chandra Jadabo S/o Prakash Chandra, as Goudu (ST).

- The Appellant filed written arguments and the concerned officer submitted parawise remarks opposing the averments of the Appellant. Heard both sides. The following order is made after perusal of the material records available on the record.

- The main contention of the appellant is that the impugned order is contrary to the procedure contemplated under law and the principles of natural justice and the gazette notification dated 17-10-1975 issued, and that the entire enquiry report related to the Uday Kumar Goud was supplied to him, and the enquiry was conducted behind his back and no opportunity was provided to cross examine the witnesses.

- The District Collector denied the contentions of the Appellant and stated that he produced an invalid ST caste certificate issued by the Principal, Junior College, Pathapatnam, and failed to produce any other material evidence and an opportunity was provided at every

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stage of the enquiry, and also submitted that the cases of the Appellant and his brother Sri U.K. Goud were taken up for enquiry by District Level Scrutiny Committee(DLSC) and separate proceedings were issued cancelling the Goud" certificates obtained by the Appellant and Uday Kumar Goud.

- As per the records, Sri R. Ramesh Kumar, President, Srikakulam District SC/ST Revenue employees Association and others represented on 24.12.06 to the Collector alleging that the Appellant here in secured an employment in Cooperative Department by producing false ST certificate and is working as Assistant Registrar in the Department and requested for cancellation of the ST certificate of the employee. The District Collector referred the case under rule 9(1) of AP SC/ST/BCs issue of Community, Nativity and Date of Birth Rules 1997, to the Joint Collector & Chairman, District Level Scrutiny Committee(DLSC) to furnish its findings.

- The appellant attended on 07 02 2009 before the Chairman, DLSC and stated that he is native of Pathapatnam, that he resided there, and his grandfather worked as Attender under Dy. Inspector Chodavaram of Visakhapatnam District and that his father was appointed as Attender on compassionate grounds, and that he studied elementary education at Pathapatnam, and that the occupation of their caste is buffalos rearing, that they used to worship the goddesses Tekulamma, Yellamma and Mangalamma and narrated his customs and traditions and further stated that they married the brides of their caste Gouda, that there is custom of remarriage of widow or widower in their caste and remarriage in case of barren wife, that at the time of marriage there is no custom of wearing of Mangalasutra on the neck of bride, that then the Tahsildar issued a caste certificates to them in 1977, and he was recruited in 1983 through AP Public Service Commission in Cooperative Department.

- The Appellant produced the Xerox copy of caste certificate dt.05.12.77 issued by the Principal, Government Junior College, Pathapatnam, countersigned by the Tahsildar, Pathapatnam on 09.12.77 as Goud-ST; SSC Pass Certificate; Xerox copy of S.R. of Prakash Chandra Goud; TC No.6/289 dt.15.04.04 issued by Head Master, Government High School, Pathapatnam; Xerox copy of Service Register, resident Certificate dt.03.02.2009 issued by Sarpanch, Pathapatnam, Caste Certificate dated 19.11.2004 of MRO, Gummalakshmipuram of Vizianagaram District issued to Goudu Ravindra of Cheemadaguda as ST Agency Gouda- ST. The Appellant failed to produce the original ST caste certificate. As per the DLSC, the appellant requested time for production of records. Despite opportunity was given to produce documents in support of his claim, on 28.02.2009 at 4.00 PM, the appellant had failed to furnish same.

- It is clear that the Appellant secured ST certificate as Goud by the Principal G.J. College Pathapatnam which was countersigned the Tahsildar Pathapatnam in 1977. As per the enquiry report of the Tahsildar Pathapatnam in Rc.No.129/08 C, dated 05.8.08 there are only 2 Goud families residing in Pathapatnam that they are treated as BCs but not STs. The District Tribal Welfare Officer, Seethampeta in Rc.No.1108 H/TW/ dated 6.2.09 reported that during the enquiry the Sarpanch, Pathapatnamhad stated that the "Goud" caste people belong to BC but not ST that for the last 30 years the family of the appellant did not reside in Pathapatnam.

- The Dy. Director, Social Welfare, Srikakulam in Rc.119/08 A4 dated 30.04.09 reported that the grandfather of the appellant came to Pathapatnam in 1938 on transfer and resided in Pathapatnam. The Dy. Director further reported that the Goud caste people in the village belong to BC Community but not ST and the appellant does not belong to ST Goudu but he belongs to BC Community. The Dy. Director, Tribal Welfare, Seethampeta in 1/08 HC.TW dated 05.06.09 reported that the native place of the appellant is not Pathapatnam and in his TC, the caste was mentioned as "Goud" only but not as ST and that the caste in the Service Register of Prakash Chandra Goud father of the appellant was noted as Goud but not ST Goudu, that their customs are not matching with the customs of STs.

- The report of the Tahsildar, Meliaputti: Tahsildar Meliaputti in his report Rc.No.264/2011 A, dt.21.04.2012 reported that during the enquiry, the blood and nearest relatives of the Appellant deposed that they belong to Gouda caste/Backward Class-B Category and accordingly certificates have been issued to them. As per the statements given by the village elders (12) of Rajapuram Village of Meliaputti Mandal and statement of Sri Jagannadha Naiko, show that the appellant belongs to BC Community and further their school records, show that they all belong to Goud BC-B. The Tahsildar Tekkali in his report Rc.No.490/2010 C, dt 18.04.2012 reported that Sri Jagannadh Prasad Gouda, Sri Ganapathi Gouda who are the brothers of the appellant deposed that the caste of their children was recorded as Gouda BC-B caste in school records etc.

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- The DLSC issued a notice in Form V in Rc.No.1148/2007 Cl, dt.20.4.2012 directing the Appellant to attend the enquiry regarding his community claim on 23.04.2012. But he failed to produce any documentary evidence before the committee and stated that to consider their caste claim as per the earlier evidences produced before the committee. The DLSC committee after examining all the evidences recommended for the cancellation of the certificate issued to the Appellant as ST and forwarded the same to the Collector.

- The copy of the findings of the DLSC was served on the appellant and directed to attend before the Collector and District Magistrate, Srikakulam on 07.05.2012 for his submissions on the report. The individual attended and failed to produce documentary evidences in support of his claim. The District Collector finally passed an impugned order holding that the appellant belongs to BC Community but not ST and he had obtained "Goud" (ST) community certificate from the Principal, G.J. College, Pathapatnam fraudulently by misrepresenting the facts and as such it deserves cancellation.

- The questions that fall for consideration in this Appeal are as to whether the Appellant has substantial evidence to make his claim as ST-Goudu/ Goud or not? And whether an opportunity was given to the Appellant to prove his claim during the enquiry?

- It is necessary to refer in this connection to the Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1956 which specified that 'Goudu(Goud) are the notified STs in the Agency Tracts. However subsequently, The Scheduled Castes and Scheduled Tribes Order (Amendment) Act 108 of 1976 in the Second Schedule, Part I, Entry (7) was enacted declaring 'Goudu (in Agency tracts)" only as Scheduled Tribe.

- The contention of the Appellant is that as per the notification issued vide G.O.Ms.No.838, dated 15-12-1977, the 'Goud" is a notified ST. It is true the Scheduled Castes and Scheduled Tribes Order (Amendment) Act 108 of 1976 specifies (Entry No 18), "Goud" is a notified ST. However the subsequent the Scheduled Castes and Scheduled Tribes Order (Amendment) Act 2002 (Act 10 of 2003) dated.07-01-2003, specified that in entry '18' for "Goud", substituted by "DoliKoya, GuttaKoya, KammaraKoya, MusaraKoya, OddiKoya and PattidiKoya. Therefore the caste "Goud" is not a notified Scheduled Tribe in Andhra Pradesh.

- The copy of the caste certificate(Xerox-1977) produced by the appellant issued by the Principal Government Junior College, Pathapatnam, shows that he belongs to "Goud" as per the ST modification order 1956. In fact the said constitutional order only referred 'Goudu(Goud) as Scheduled Tribes only in the Agency Tracts. Admittedly the appellant and his family members are residents of Pathapatnam. Infact Pathapatnam is not a notified scheduled area in Srikakulam District. The Certificate itself is not a proof to declare the status of individual as ST in the case.

- All other records produced by the Appellant show only his caste as "Goud" without mentioning the ST. Therefore as per the Act 10 of 2003, "Goud" is not a notified ST in Andhra Pradesh. The enquiries conducted by several officers of revenue, and tribal welfare officials clearly reveal that the appellant belongs to Goud-BC category. The local enquiries also prove that the appellant belongs to Goud-B.C, not a notified ST. "Goudu" is only a notified ST in the agency tracts, for the purpose of the above Act.

- In the present case the applicant is not an ordinary resident of the Agency Tracts and his own blood relatives have admitted that they all belong to Gouda caste BC community and admittedly the school records of the children of his brothers also prove to this effect. The burden on the appellant to prove that he belongs to a notified ST in the Scheduled Area by producing the original ST certificate issued by a competent authority. The records reveal that an ample opportunity was given at every stage of enquiry to prove his claim as ST.

- When the burden of proof is on the appellant under section 6 of the Act, he has to establish that he belongs to the community to which he claims to belong, it is for him to produce valid evidence in support for the claim made by him. The Hon'ble Supreme Court, in Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, on 8th November, 2011, observed that "Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim".

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- The District Collector is empowered under Section 5(1), either on suomotu or on a written complaint in person, can call for the record of any person who obtained false Community Certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District Collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation. Therefore, the impugned order passed by the District Collector is in accordance with the provisions of the law.

- It is a matter of grave concern that persons who belongs to non STs have been indulging in gross misuse the community certificates obtained by playing fraud depriving the constitutional benefits envisaged for the genuine Scheduled Tribes.

- In view of the discussions made above, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein as ST-Goud by the Principal, Government Junior College, Pathapatnam. Therefore the impugned order passed by the District Collector, Srikakulam District, Srikakulam, vide RC.No.1148/2007 CI, dated 23-5-2012 is hereby upheld and does not warrant interference from this Appellate Authority. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Sri Tarinichandra Jadavo S/o Prakash Chandra Goud does not deserve any interference. Hence, the proceedings in Rc.No.1148/2007 C1, dated 23.05.2012 of the District Collector, Srikakulam are hereby upheld and the appeal petition filed by Sri Tarinichandra Jadavo S/o Prakash Chandra Goud is hereby dismissed.

6. The Collector & District Magistrate, Srikakulam is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (D.Dis.1148/2007 C1, containing pages 1-465) received from the Collector & District Magistrate, Srikakulam are returned herewith in original to the Collector & District Magistrate, Srikakulam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Srikakulam.
(With original Records)

Sri Tarinichandra Jadavo
S/o Prakash Chandra Goud, Asst. Registrar,
Divisional Co-operative Office,
Tekkali, Srikakulam District- 532222**(By RP)**

Copy to:

The PS to Principal Secretary to Govt.,
Marketing and Cooperation Department,
A.P. Secretariat, Velagapudi.

The Commissioner for Co-operation and
Registrar of Cooperative Societies, A.P., Guntur.

The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW)
Sf/Sc.

// FORWARDED:: BY ORDER //

Ch Srinivasulu
SECTION OFFICER